



DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 500

Decatur, GA 30030

(404) 371-2155 / plandev@dekalbcountyga.gov

Planning Commission Hearing Date: March 5, 2019, 6:30 P.M.

Board of Commissioners Hearing Date: March 26, 2019, 6:30 P.M.

STAFF ANALYSIS

Case No.: Z-19-1243043 **Agenda #:** N. 8

Location/Address: 2602 East Tupelo Street, Atlanta. **Commission District:** 3 **Super District:** 6

Parcel ID(s): 15-202-03-103

Request: Rezone property from R-75 (Residential Medium Lot - 75) to MR-2 (Medium Density Residential-2) for development of 24 single-family attached townhome units and six single-family detached units at a density of 5.54 units per acre.

Property Owner(s): Walter and Rebecca Stovall

Applicant/Agent: ATKM Memorial, LLC c/o J. Alexander Brock, Esq.

Acreage: 5.12 acres

Existing Land Use: A single-family residence.

Surrounding Properties: To the north: undeveloped open space; to the northeast, east, southeast, and south: multifamily residential; to the southwest, west, and northwest: single-family residential.

Adjacent Zoning: **North:** R-75 **South:** MR-2 **East:** MR-2 **West:** R-75 **Northeast:** R-75 **Northwest:** R-75
Southeast: MR-2 **Southwest:** MR-2

Comprehensive Plan: SUB (Suburban) ☐ **Consistent** ☒ **Inconsistent** (See LP-19-1243107)

Proposed Density: 5.54 units per acre	Existing Density: .20 units per acre
Proposed Units: 30	Existing Units/Square Feet: One
Proposed Lot Coverage: 52%	Existing Lot Coverage: (estimate) less than 10%

Companion Application:

The applicant has filed a companion application (LP-19-1243107) to amend the Future Land Use Map from SUB (Suburban) to CRC (Commercial Redevelopment Corridor).

SITE AND PROJECT ANALYSIS

The subject property is a 5.12-acre site located near the dead end of East Tupelo Street, an unstriped, two-way local street. The property is developed with a one-story frame house, in front of which an area has been cleared for a lawn. An Atlanta Gas Light utility easement, which runs in a southwest-northeast direction through the site, is also cleared. Approximately 2/3 of the site is wooded. Shoal Creek runs along the northeast property line. The Creek continues into Dearborn Park, which borders the north and northeastern property line.

The proposal under consideration consists of six single-family detached units and 24 townhome units, served by a 28-foot private drive. The site plan depicts, on both sides of the private drive, a 5-foot landscape strip back of curb, in which street trees would be planted 40 feet apart, and a 5-foot sidewalk. The site plan also shows walking trails through a greenway in the northwestern portion of the sit, which lead to Dearborn Park.

The adjoining property to the southeast is developed with the Blue Sky Condominiums. This property, which consists of approximately 11 acres and is zoned MR-2, has a history of foreclosures, partial redevelopment, and a fraudulent investment scheme, and is currently in a deteriorated condition. ATKM Memorial has proposed, in addition to rezoning the subject property, redevelopment of the Blue Sky property for a mixture of townhomes, single-family detached homes, and “quadroplexes” (four units in a single building). ATKM Memorial proposes to combine the Blue Sky property with the subject property to create a single development with 93 units. The Blue Sky property has vehicular access on Memorial Drive, and after the two properties are combined, access provided by the Memorial Drive curb cut as well as access from East Tupelo Street would distribute vehicular trips to and from the subject property to avoid congestion on nearby neighborhood streets.

Nearby properties along Memorial Drive are designated CRC (Commercial Redevelopment Corridor) and are zoned C-1 (Local Commercial), although many of them are still used for single-family homes. Commercial development is consistently found east of Thomas Road, located approximately .35 miles to the east, but is scattered along the corridor to the Atlanta City line, approximately .45 miles to the west.

LAND USE AND ZONING ANALYSIS

Section 27-832 of the Zoning Ordinance, “Standards and factors governing review of proposed amendments to the official zoning map” states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:

The proposed development is consistent with Commercial Redevelopment Corridor Policy No. 6 to: “Cluster high density development at nodes and along major corridors outside of established residential areas.” Although the northwest and west side of the property backs up to a single-family neighborhood, after development it would become an integral part of a mixed residential development that would have vehicular access on Memorial Drive as well as East Tupelo Street. Thus, it would become part of the Memorial Drive commercial corridor and would help fulfill the Comprehensive Plan vision for commercial redevelopment character areas to contain higher-density residential as well as commercial land uses.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. It would bolster the viability of the proposed redevelopment project on the adjoining Blue Sky property; it is not only suitable but important to the use and development of that property. The proposed

density of the development would allow a transition between the single-family residential neighborhood to the north and potential future commercial development within the Memorial Drive Commercial Redevelopment Corridor.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

The subject property appears to have reasonable economic use as currently zoned for single-family residential development; however, housing trends (as shown by new multifamily construction on Memorial Drive near Oakland Cemetery, located to the west of the subject property) indicate that the best use of the property is for the type of medium-density residential development that is being proposed.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

More than half of the portion of the subject property that adjoins the rear yards of the single-family homes to the northwest is proposed to be left as natural green space, and a twenty-foot undisturbed buffer is proposed between the eight-unit townhome building on the northwest portion of the site and the single-family properties. Thus, the adjoining properties would be well-screened from the proposed development.

E. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:

Development of the property would reinforce redevelopment of the adjoining Blue Sky property so that it can be converted from a blighted property to a modern residential development with a mixture of residential housing types.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

G. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:

Staff of the Public Works Traffic Engineering Division has commented that plan and field reviews indicated “no problem that would interfere with traffic flow.” The DeKalb County School Board has commented that neighborhood elementary, middle, and high schools have adequate capacity to accommodate the students who are expected to live in the development. There has been no indication that the zoning proposal would overburden existing utilities.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources:

By providing more than double the amount of required open space as well as trails to Dearborn Park, the proposed development demonstrates how residential development can be accomplished in a manner that preserves large areas of natural green space and provides linkage to off-site natural resources.

Compliance with District Standards:

MR-2 STANDARD		REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
MAX. D.U.s/ACRE (BASE, W/BONUSES)		Base: 12 d.u.s/acre W/Bonuses: up to 24 d.u.s/ac.	Proposed: 5.54 units per acre Allowed with enhanced open space density bonus: 24 units per acre	Yes
MIN. OPEN SPACE		15%	48%	Yes
MIN. TRANSITIONAL BUFFER		None required.	N.A.	N.A.
MIN. LOT AREA		S-F Attached: 1,000 square feet	1,100 square feet	Yes
		S-F Detached Cottage: 2,000 s.f.	2,275 square feet	Yes
MIN. LOT WIDTH		S-F Attached: 20 feet	20 – 25 feet	Yes
		S-F Detached Cottage: 20 feet	35 feet	Yes
MAX. LOT COVERAGE		S-F Attached: 85%	Max. 70%	Yes
		S-F Detached Cottage: 65%.	Max. 65%	Yes
BUILDING SETBACKS	FRONT w/o alley	Determined by utility placement, ROW, streetscape	10 – 15 feet	Yes
	FRONT w alley access	S-F Attached: 5 feet	10 feet	Yes
		S-F Detached: 10 feet	10 feet	Yes
	INTERIOR SIDE	S-F Attached: N.A. S-F Detached Cottage: 3 feet with min. 10-foot separation between bldgs.	N.A. 5 feet with 10-foot separation between buildings	N.A. Yes
	SIDE – CORNER LOT ON PUBLIC STREET	S-F Attached: 5 feet S-F Detached: 10 feet	10 feet No S-F Det. corner lots	Yes No S-F Det. corner lots
	REAR W/O ALLEY	S-F Attached: 15 feet S-F Detached: 20 feet	15 feet No units of this type	Yes N.A.
	REAR W/ ALLEY	10 feet	13 feet	Yes
MINIMUM UNIT SIZE		S-F Attached: 1,000 square feet	2,000 square feet	Yes
		S-F Detached Cottage: 800 sq. feet	2,200 – 3,000 square feet	Yes
MAX. BLDG. HEIGHT		S-F Attached: 3 stories or 45 feet	Max. 35 feet	Yes
		S-F Detached: 35 feet	Max. 35 feet	Yes

MR-2 STANDARD	REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
PARKING – S-F ATTACHED	Min.: 1.5 space/unit + .25 guest spaces/unit = 36 spaces Max.: 3 spaces/unit + .25 guest spaces/unit = 78 spaces	48 spaces	Yes
PARKING – S-F DETACHED	Min.: 2 spaces = 12 spaces Max.: 4 spaces = 24 spaces	12 spaces	Yes
STREETSCAPING ON PRIVATE DRIVE	5-foot landscape strip, 5-foot sidewalk, street trees 50 feet on center or every other unit, whichever distance is less	5-foot landscape strip, 5-foot sidewalk, street trees 40 feet on center	Yes

QUALITY OF LIFE METRICS

Open Space: 113,675 square feet (27%)

Linear Feet of New Sidewalk or Trails: 1,507 linear feet of sidewalks; 934 linear feet of trails

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS.

The proposed development is consistent with Comprehensive Plan Policy No. 6 to: “Cluster high density development at nodes and along major corridors outside of established residential areas.” Although the northwest side of the property backs up to a single-family neighborhood, after development it would become an integral part of a mixed residential development that would have vehicular access on Memorial Drive as well as East Tupelo Street. Thus, it would become part of the Memorial Drive commercial corridor and would help fulfill the Comprehensive Plan vision for commercial redevelopment corridor character areas to contain higher-density residential as well as commercial land uses. At the same time, the proposed density of the development would allow a transition between the single-family neighborhood and the commercial redevelopment corridor along Memorial Drive. More than half of the portion of the subject property that adjoins the rear yards of single-family homes is proposed to be left as natural green space, and a twenty-foot undisturbed buffer is proposed between the eight-unit townhome building and the single-family properties. Thus, the adjoining properties would be well-screened from the proposed development. By providing more than double the amount of required open space as well as trails to Dearborn Park, the proposed development demonstrates how residential development can be accomplished in a manner that preserves large areas of natural green space and provides linkage to off-site natural resources. Therefore, the Department of Planning and Sustainability recommends “Approval” with the following conditions:

1. The proposed development shall have a maximum density of six (6) units per acre.
2. The proposed development shall consist of single-family detached or townhome building types.
3. The proposed greenway connection to Dearborn Park shall be provided as shown on the site plan titled, “Blue Sky”, prepared by TSW, dated 2/19/19 and stamped as received by the Department of Planning and Sustainability on 02/20/19.

Attachments:

1. Department and Division Comments
2. Board of Health Comments
3. Board of Education Comments
4. Application
5. Site Plan
6. Zoning Map
7. Land Use Plan Map
8. Aerial Photograph
9. Site Photographs

NEXT STEPS

Following an approval of this zoning action, one or several of the following may be required:

- ✓ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✓ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✓ • **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- ✓ • **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.



DEKALB COUNTY GOVERNMENT

PLANNING DEPARTMENT

The following areas below may warrant comments from the development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

Consult the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control, to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site. Recommend Low Impact Development features/Green Infrastructure be included in the proposed site design to protect as much as practicable.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations.

Zoning Comments


N1 & N2. Rock Chapel Road is SR 124. GDOT review and permits required. . Contact Justin Hatch at GDOT District 7 (juhatch@dot.gov). Rock Chapel Road is classified as a major arterial. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements. Right of way dedication of 50 feet from centerline required. All public infrastructure is required on public right of way- even if it exceeds 50 feet from centerline. Applicant is encouraged to seek an access easement across private property to obtain access to the traffic signal at Rock Mountain Rd and Rock Chapel Road. Street lighting along Rock Chapel Road required.

N3. No customer parking within public right of way along Chantilly Road due to close proximity of multiple intersections. Chantilly Road is classified as a local road. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements. Right of way dedication of 27.5 feet from centerline of Chantilly Road. These requirements will be applied with any land development permits.

N4. Rice Road, Classified as a local road. No comment.

N5. Lexington Trace is classified as a local road. Agape Way is classified as a local road. Agape Road is located within the I-285 right of way. GDOT review and approval is required. Contact Justin Hatch at GDOT District 7 (juhatch@dot.gov). Applicant must coordinate with the Major Mobility Improvement Projects (MMIP) proposed managed lanes project along the east wall of I-285. Contact Tim Matthews (TMatthews@dot.ga.gov) prior to permitting. Local roads require a 27.5 foot right of way dedication from centerline, 5 foot landscape strip, 5 foot sidewalk. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements. Streetlights required. Infrastructure improvements required on all frontages.

N6. Nicole Lane is classified as a local road. Reginald Court is classified as a local road. No comment.



N7 & N8. E. Tupelo Street is classified as a local roads. Oldfield Road is classified as a local road. All local public roads require a 27.5 foot right of way from centerline, five foot landscape strip, five foot sidewalk and street lights. Infrastructure improvements required on all frontages. See Chapter 14-190 and Chapter 5 of the Zoning Code for required infrastructure improvements.

N9. Wellborn Road is classified as a collector road. Collector Roads require a 35 foot right of way dedication from centerline, 6 foot sidewalk, 4 bike lane, 5 foot landscape strip, and streetlights. Covington Hwy is classified as major arterial. Requires GDOT approval and review. Contact Justin Hatch at GDOT District 7 (juhatch@dot.gov). Major arterials require a 50 right of way dedication from centerline, 6 foot sidewalks, 4 foot bike lane, 5 foot landscape strip and street lights. Number of units requires two access points per code. Eliminate the acceleration lane at entrance. GDOT has just awarded an intersection project at the intersection of Covington Hwy at Wellborn Rd/Cove Lake Road. Coordinate with construction awarded to Baldwin Paving. Install a roundabout at the access point on Wellborn Road- eliminates the right turn lane and the left turn lane. The Transportation Division will support the one entrance with the installation of a roundabout, but still requires Board action to vary from the code.

N10. Flowers Road is classified as a collector road. . Collector Roads require a 35 foot right of way dedication from centerline, 6 foot sidewalk, 4 foot bike lake, 5 foot landscape strip, and streetlights. Covington Hwy is classified as major arterial. Extend infrastructure improvements along all property lines. Intersection, stopping and left turn sight distance required to be verified by Professional Engineer at entrance on Wellborn Road due to curve and possible hill crest along Wellborn Road. Minimum sight distance requirements must be met for permitting.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MADOLYN SPANN MSPANN@DEK4LB.COUNTYGA.GOV OR JOHN REID JREID@DEK4LB.COUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: Z-19-1243043

Parcel I.D. #: 15-202-,03-103

Address: 2602

East Tupelo street,

АТНата, Га

Adjacent Roadway (s):

(classification)

(classification)

Capacity (TPD)_____

Latest Count (TPD) _____

Hourly Capacity (VPH) _____

Peak Hour Volume (VPH) _____

Existing number of traffic lanes _____

Existing right of way width _____

Proposed number of traffic lanes _____

Proposed right of way width _____

Capacity (TPD) _____

Latest Count (TPD) _____

Hourly Capacity (VPH) _____

Peak Hour. Volume (VPH) _____

Existing number of traffic lanes

Existing right of way width

Proposed number of traffic lanes

Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1, 000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the ____ (Single Family Residential) District designation which allows a maximum of ____ units per acres, and the given fact that the project site is approximately ____ acres in land area, ____ daily vehicle trip end, and ____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

PLANS AND FIELD REVIEWED. NO PROBLEM THAT WOULD INTERFERE WITH TRAFFIC FLOW.

Signature: Jerry Whit



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER mmalexander@dekalbcountyga.gov OR JOHN REID jreid@DEKALBCOUNTYGA.GOV

**COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER**

Case No.: Z-19-1243043

Parcel I.D. #: 15-202-03-103

Address: 2602 East Tupelo Street

Atlanta, Georgia

WATER:

Size of existing water main: 6" CI Water Main (adequate/inadequate)

Distance from property to nearest main: Terminate on Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: Shoal Creek Basin

Is sewer adjacent to property: Yes (X) No () If no, distance to nearest line: _____

Water Treatment Facility: Snapfinger WTF () adequate () inadequate

Sewage Capacity; * (MGPD)

Current Flow: 21.77 (MGPD)

COMMENTS:

* Please note that the sewer capacity has not been reviewed or approved for this project. A Sewer Capacity Request (SCR) must be completed and submitted for review. This can be a lengthy process and should be addressed early in the process.

Signature: 

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

2/15/2019

N.5

Z-19-1243041- 2019-3213/15-196-03-008

3085 Lexington Ter, Decatur, GA 30035

☐ Amendment

- Please see general comments.

N.6

SLUP-19-1243042/ 2019-3214/16-188-04-025

1794 Nicole Lane, Lithonia

☐ Amendment

- Septic installed on 06/09/1972.

- Review general comments.

N.7

LP-19-1243107/2019-3330/15-2-2-03-103

2602 E. Tupelo St., Atlanta, GA

☒ Amendment

- Note: Property 2593 located in the same area has septic installed 07/26/1974. Septic installation may apply.

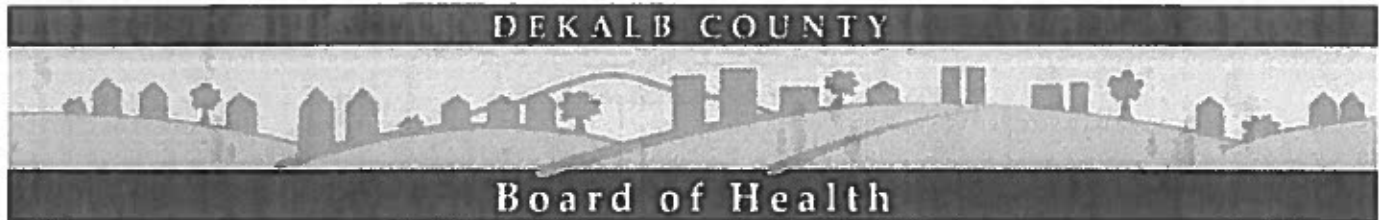
N.8

Z-19-1243-43/2019-3215/15-202-03-103

2602 E. Tupelo St., Atlanta, GA

☐ Amendment

- Note: Property 2593 located in the same area has septic installed 07/26/1974. Septic installation may apply.



2/15/2019

To: Ms. Madolyn Spann, Planning Manager
Mr. John Reid, Senior Planner
From: Ryan Cira, Environmental Health Manager
Cc: Alan Gaines, Technical Services Manager
Re: Rezone Application Review

General Comments:

DeKalb County Health Regulations prohibit use of on-site sewage disposal systems for

- multiple dwellings
- food service establishments
- hotels and motels
- commercial laundries
- funeral homes
- schools
- nursing care facilities
- personal care homes with more than six (6) clients
- child or adult day care facilities with more than six (6) clients
- residential facilities containing food service establishments

If proposal will use on-site sewage disposal, please contact the Land Use Section (404) 508-7900.

Any proposal, which will alter wastewater flow to an on-site sewage disposal system, must be reviewed by this office prior to construction.

This office must approve any proposed food service operation or swimming pool prior to starting construction.

Public health recommends the inclusion of sidewalks to continue a preexisting sidewalk network or begin a new sidewalk network. Sidewalks can provide safe and convenient pedestrian access to a community-oriented facility and access to adjacent facilities and neighborhoods.

For a public transportation route, there shall be a 5ft. sidewalk with a buffer between the sidewalk and the road. There shall be enough space next to sidewalk for bus shelter's concrete pad installation.

Since DeKalb County is classified as a Zone 1 radon county, this office recommends the use of radon resistant construction.

DeKalb County Board of Health

**DeKalb County School District
Development Review Comments**

Analysis Date: 2/19/2019

Submitted to: DeKalb County

Case #: LP-19-1243103
Parcel #: 15-202-03-103

Name of Development: Tupelo Street SF/TH
Location: 2602 Tupelo Street, Atlanta

Description: Applicant is seeking rezoning for a R-75 parcel as part of a larger redevelopment of neighboring garden apartments.

Impact of Development: When fully constructed, this portion of the development would be expected to house 4 students: 1 at Avondale ES, 1 at another DCSD school, and 2 in private school. All three neighborhood schools have capacity.

Current Condition of Schools	Avondale ES	Druid Hills MS	Druid Hills HS	Other DCSD Schools	Private Schools	Total
Capacity	625	1,182	1,405			
Portables	0	0	0			
Enrollment (Fcst. Oct. 2019)	390	949	1,388			
Seats Available	235	233	17			
Utilization (%)	62.4%	80.3%	98.8%			
New students from development	1	0	0	1	2	4
New Enrollment	391	949	1,388			
New Seats Available	234	233	17			
New Utilization	62.6%	80.3%	98.8%			

Summary of Student Calculations

	TH (24)	SF(6)	TOTAL
Avondale ES	1	0	1
Druid Hills MS	0	0	0
Druid Hills HS	0	0	0
Other DCSD Schools	0	1	1
Private Schools	1	1	2
Total	2	2	4



DeKalb County Department of Planning & Sustainability

Michael L. Thurmond
Chief Executive Officer

REVISED
2/12/19

Andrew A. Baker, AICP
Director



APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA

Z/CZ No. Z-19-1243043
Filing Fee: _____

Date Received: _____ Application No.: _____

Applicant: ATKM Memorial, LLC c/o J. Alexander Brock E-Mail: jabrock@sgrlaw.com

Applicant Mailing Address: 1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309

Applicant Phone: 404-815-3603 Fax: 404-685-6903

Owner(s): Walter and Rebecca Stovall E-Mail: _____
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: 2602 E. Tupelo St., SE, Atlanta, GA 30317

Owner(s) Phone: _____ Fax: _____

Address/Location of Subject Property: 2602 E. Tupelo St.

District(s): 15 Land Lot(s): 202 Block: 03 Parcel(s): 103

Acreage: 5.12 +/- Commission District(s): 3 / 6

Present Zoning Category: R-75 Proposed Zoning Category: MR-2

Present Land Use Category: SUB

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted.

Disclosure of Campaign Contributions

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered:

Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes ☐ No ☒

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

Shawna E. Avila
NOTARY

3-16-20
EXPIRATION DATE / SEAL

[Signature]
SIGNATURE OF APPLICANT / DATE

Check One: Owner ☐ Agent ☒

330 West Ponce de Leon Avenue - Suites 100-500 - Decatur, Georgia - 30030
[voice] 404.371.2155 - [Planning Fax] (404) 371-4556 [Development Fax] (404) 371-3007
Web Address: www.dekalbcountyga.gov/planning
Email Address: planninganddevelopment@dekalbcountyga.gov

I. INTRODUCTION

This Application seeks to rezone ± 5.418 acres of land located along the eastern terminus of East Tupelo Street, Parcel ID 1520203103 ("Subject Property"), from R-75 (Local Commercial) to MR-2 (Medium Density Residential-2). The Subject Property consists of a single parcel more particularly located at 2602 East Tupelo Street, DeKalb County, Atlanta, GA. The Applicant intends to redevelop the Subject Property concurrently with an adjacent property at 3106 Memorial Drive (Parcel ID 15 202 03 253) (the "Blue Sky Property"), that consists of ± 11.38 acres. Combined, the Subject Property and the Blue Sky Property will appear as a single development containing 93 total units in a mix of single family detached, townhome and quadplex units. The Subject Property will contain 24 townhome and 6 single family detached units of the overall development (the "Proposed Development"). The Blue Sky Property will contain 25 townhomes, 30 single family detached units, and 12 quadplex units (the "Blue Sky Development") and is already zoned for this use (the "Proposed Development" and the "Blue Sky Development" are collectively referred to as the "Master Development").

The Subject Property is currently developed with an existing single family residence and an accessory building (garden shed). The Applicant will remove the existing single family structure and garden shed along with the adjacent Blue Sky Condominiums to accommodate the Proposed Development. The Blue Sky Property is developed with the seventeen (17) stacked-flat residential buildings that comprise the existing Blue Sky Condominiums. However, the Blue Sky Condominiums have remained vacant for several years, which has attracted illicit activity into the area much to the dismay of many of the surrounding neighbors¹. The redevelopment of

¹ See Duffie Dixon, "Neighbors Demand Decatur Eyesore be Torn Down", 11alive.com (May 16, 2017), <https://www.11alive.com/article/news/local/holding-powerful-accountable/neighbors-demand-decatur-eyesore-be-torn-down/440332685>

the Blue Sky Property would be a boost to the surrounding community and the Subject Property is integral to its redevelopment. The Subject Property will allow sufficient area to support the more modern residential development with larger, intermingled open spaces, as well as providing a connection to the adjacent Dearborn Park. The Proposed Development includes a mix of unit types in updated, attractive and modern housing that will add to and bolster the growth of the surrounding community.

The Proposed Development fits in perfectly with the development trends in the area and it appropriate given the surrounding development. To the north of the Subject Property is greenspace owned by DeKalb County, zoned R-75.² To the west are single family residential lots along St. Patrick Street and E. Tupelo Street, all zoned R-75. The property fronts approximately 113-feet of Oldfield road to the east. Also, to the east and south lies the Blue Sky Property, zoned MR-2. Further south along Memorial Drive are properties zoned C-1 and O-I.

The majority of the Subject Property is largely wooded with some areas of residential landscaping. There is also a 30-foot wide Atlanta Gas Light easement that extends north to south through the Subject Property, which is cleared of trees. The topography of the Subject Property is hilly, generally sloping downhill to the north toward Shoal Creek, which runs along the property's northern boundary. The Applicant intends to incorporate a significant portion of the natural open space into the Proposed Development.

The MR-2 district requires a minimum of 15% open space, however the Applicant is providing \pm 50% open space (\pm 2.61 acres) as well as \pm 42% enhanced open space (\pm 2.19 acres) in the form of greenway and greens. The greenway will include soft and hard walking trails that will provide access to the adjacent Dearborn Park. The greens will be interspersed among the

²This property is labeled as the Dearborn Park expansion on the DeKalb County Parks & Greenspace Map.

residences to provide an infusion of community greenspace for the enjoyment of the residents and the enhancement of the overall development.

In sum, the proposed MR-2 zoning will allow the development of an attractive mix of housing that is appropriate and complementary to the surrounding community. It is the desire of the Applicant that the Proposed Development will act to further spur the positive growth of the area. This document is submitted as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, a Written Justification for the Application as required by the DeKalb County Zoning Ordinance §27-832, and a Written Statement as required by §27-649.3(2).

II. HISTORY

The Subject Property is zoned R-75 and designated as "Suburban" on the County's Future Land Use Map. The Applicant's research of the Subject Property's has not revealed any prior rezonings or conditions that affect the property. Concurrent with the instant rezoning application, DeKalb County has introduced a text amendment to change the Subject Property's character area from Suburban to Commercial Redevelopment Corridor (CRC). The CRC character area fully allows the proposed MR-2 Zoning.

III. IMPACT ANALYSIS

A.

THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN

The Subject Property is designated as "Suburban" by the County's Comprehensive Land Use Plan, however, as stated in previous paragraphs, DeKalb County has introduced a text amendment to change the Subject Property's character area to Commercial Redevelopment

Corridor (CRC). The CRC character area fully allows the proposed MR-2 zoning and the proposed use. The intent of the CRC character area is to promote the redevelopment of declining commercial corridors and to improve the function and aesthetic appeal of more stable commercial corridors. DeKalb County's Comprehensive Plan 2035 lists Memorial Drive as one of the declining corridors in need of redevelopment. The Proposed Development falls neatly within the Comprehensive Plan's goals by redeveloping an abandoned condominium complex into a vibrant, modern mix of housing that is desperately needed in the area. The mix of housing types envisioned in the Proposed Development will greatly improve the mix of unit types in the area, thereby furthering the growth of the Memorial Drive corridor. In addition, this proposal fosters a number of general policies and strategies for the CRC character area in the County's Comprehensive Plan:

- Aesthetics—Create and implement performance and aesthetic standards to improve visual appearance.
- Tree Preservation—Establish tree preservation and landscaping standards.
- Development—Focus development on parcels that abut or have access to the designated Commercial Redevelopment Corridor.

B.

THE PROPOSED REZONING PERMITS A USE THAT IS
SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND
NEARBY PROPERTY

The Subject Property is immediately adjacent to an established residential neighborhood along East Tupelo Street and Patrick Court. To the south of the Proposed Development, along Memorial Drive, however, are properties zoned C-2. The Proposed Development's denser housing will provide a suitable transition between the more intense uses along Memorial Drive

and the existing single family residential to the north. In addition, there are similarly zoned MR-2 parcels in the nearby vicinity of the Subject Property, namely the Blue Sky property, indicating the suitability of the proposed zoning for the area. The proposed use will blend harmoniously with the adjacent properties and is compatible with the current character of the area.

C.

THE SUBJECT PROPERTY DOES NOT HAVE A
REASONABLE ECONOMIC USE AS PRESENTLY ZONED.

The current R-75 zoning restricts the development of the Subject Property to limited single family detached residential and limited other uses. The R-75 zoning, however, is contrary to the demand for residential development in the area, which is trending toward more urban, denser construction with an infusion of different unit types to supplement the existing single family detached neighborhoods. As the area continues to grow, there will be a continued demand for a greater mix of unit types beyond single-family residential that currently dominates the area. Consequently, it is unlikely that the Subject Property will be developed in any practical sense under its current R-75 zoning.

D.

THE PROPOSED REZONING WILL NOT ADVERSELY AFFECT THE EXISTING
USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY

In advance of filing this Application, the Applicant has engaged and will continue to engage in negotiations with the community in the vicinity to make sure its proposal is acceptable to these neighbors. As stated in earlier paragraphs, the Proposed Development will result in a use that is appropriate for and complementary to the adjacent and surrounding uses.

The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both "off-site" and "on-

site" transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. All of these devices have been utilized in this Application.

E.

THERE ARE OTHER EXISTING OR CHANGING CONDITIONS
AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY

As stated in previous paragraphs, the Memorial Drive corridor is one that is transitioning from an area that was dominated by single family residential housing on 0.25 to 0.5 acre lots to one that includes a diversity of housing options. The current trend in this area is toward more dense urban housing in a mix of unit types. The proposed rezoning will allow the Subject Property to include the denser residential that is more in line with housing demands in the area. The development will blend harmoniously with the commercial and residential sites in the surrounding area.

F.

THE ZONING PROPOSAL WILL NOT ADVERSELY AFFECT HISTORIC
BUILDINGS, SITES, DISTRICTS OR ARCHAEOLOGICAL RESOURCES

No such sites, buildings, or resources are on or near the Parcel.

G.

THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH
WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF
EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR
SCHOOLS

This Project, if approved, certainly will not affect existing transportation facilities. Requisite parking is provided incidental to this development. The Proposed Development has direct access to East Tupelo Street and Oldfield Road, both classified as a local street, as well as Memorial Drive, which is classified as a major arterial. See *DeKalb County 2014 Transportation Plan*, Figure 5-2, Functional Classification Map: DeKalb County. The traffic to be generated by the proposed project should not significantly affect traffic capacities along these roadways and surrounding streets, even at peak hours, and can be accommodated.

The Applicant used the Institute of Traffic Engineers (ITE) Trip Generation Manual (Ninth Edition) to calculate vehicle trips for Single Family Detached Housing (ITE 210) and Residential Condominium/Townhomes (ITE 230). According to ITE, the Proposed Development will result in a net increase of 130 trips during a weekday, 10 trips during a weekday a.m. peak hour, and 12 trips during a weekday p.m. peak hour. Further, the project is served by mass transit with excellent access to MARTA Bus Route 21, which stops in front of the Proposed Development on Memorial Drive, and is less than ½ mile from Bus Route 15. Convenient access to mass transit will help mitigate any impacts from the Proposed Development.

The school children living in the residential portion of the development will attend Avondale Elementary School; Druid Hills Middle School; and Druid Hills High School. All three schools are listed as under capacity according to DeKalb County Schools' FTE Enrolment Report, dated October 2, 2018. As a result, the proposed development is not anticipated to have a significant impact on local schools.

As for utilities, the Subject Property has access to water and sewer.

IV. NOTICE OF CONSTITUTIONAL CHALLENGE TO UNDERLYING ZONING AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that the current zoning classification of the Subject Property and any proposed intervening district is unconstitutional and rules relative to the Subject Property owner's right to use the Property established in the DeKalb County Zoning Ordinance, to the extent they prohibit this use, constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a taking of private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The Applicant respectfully submits that the Board of Commissioners' failure to approve the requested rezoning would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Subject Property's owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to allow the rezoning in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

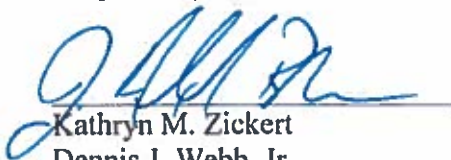
V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application.

[Signature on Following Page]

This 13th day of February, 2019.

Respectfully Submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Smith, Gambrell & Russell, L.L.P.

Promenade II, Suite 3100
1230 Peachtree Street, NE
Atlanta, GA 30309
404-815-3704

Avila, Shawna E.

From: Atticus LeBlanc <atticus@padsplit.com>
Sent: Thursday, December 06, 2018 12:07 AM
To: elfreda@bellsouth.net; Beth Bond; pat.lawrencecraig@gmail.com; lglover@ivyiningconsulting.com; 'Jetty Guinyard' (guinyard1@aol.com); phthompson3@msn.com; NettieJackson@me.com; carolyn.jones818@yahoo.com; DONALD MURRAY (murraydonze@bellsouth.net); pdk-powell@comcast.net; apringle@bellsouth.net; samandbettysmith@bellsouth.net; TommyTTravisconsulting@gmail.com; nahwash4ms@aol.com
Cc: Avila, Shawna E.; Brock, Alex; Stan Sugarman
Subject: Community Meeting for Rezoning
Attachments: 2602 E Tupelo - Community Mtg notice.docx

CAUTION: This email is from an external source. Do not click links or attachments unless it's from a verified sender.

Good evening, members of District 3 Community Council,

I am writing to let you know that we have scheduled our meeting for the rezoning of the property located at 2602 East Tupelo St. Atlanta, GA 30317 from R75 to RSM. We have mailed letters to all neighbors within 500' of the property, and I also posted a notice for the meeting on the Nextdoor.com neighborhood website. The mailed letter is also attached hereto for your information.

The community meeting is scheduled to be held 12/21/18 at 7 PM at Blue Tarp Brewing located 731 E. College Ave. Decatur, GA 30030.

Feel free to contact me directly if you have any questions.

Best,
Atticus



Atticus LeBlanc
Founder / CEO

(770) 411-1117





November 28, 2018

Re: Community Meeting

Dear Neighbor:

An application to rezone property located at 2602 East Tupelo Street from R-75 to RSM for the purpose of a master-planned residential community. A Community meeting has been scheduled as follows:

Date: Friday, December 21st, 2018

Time: 7:00 p.m. to 8:00 pm

Place: Blue Tarp Brewing, 731 E College Ave, Decatur, GA 30030

What is a Community Rezoning Meeting? Community rezoning meetings are designed to inform the surrounding communities of current rezoning and special use permit applications. It's an opportunity for the community to learn about the proposed project, ask questions, present concerns, and make suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read "Atticus LeBlanc".

Atticus LeBlanc

STRYANT CONSTRUCTION AND MANAGEMENT, INC.

December 21, 2018 @ 7:00 p.m.

COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Joe Gerdwin	2539 Saint Patrick St SE	Joe.gerdwin1934@gmail.com
Hartley Janney	2579 East Tupelo ST SE 30317	hartley.janney@gmail.com
Caleb Janney	" ↑ "	cjanney@gmail.com
Amber Pounds	1501 Harvest Lane SE Atlanta, GA 30317	amberspounds@gmail.com
LARRY SCHWARTZ	2563 E TUPELO ST ATL GA 30317	LEMESS93@yahoo.com
Barbara Jonathan McFee - totz	2602 E. Tupelo St. ATL GA 30317	jonathan-mcfee@yahoo.com
JEHANI CHRISTOPHER	2579 E TUPELO ST ATL GA 30317	77MYWORLD@GMAIL.COM
Keisa Bruce- Steele	1480 Catherine St Decatur, GA 30030	keisa.bruce@gmail.com (404) 304-0612

STRYANT CONSTRUCTION AND MANAGEMENT, INC.

December 21, 2018 @ 7:00 p.m.

COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Robert Grable	1384 Oldfield Rd 30030	fred810@mindspring.com
Jody Whitlow	1519 Uvalde Dr 30030	Jody-Whitlow@gmail.com
Walter Stovall	1222 Carter Rd 30030 30030	walter@stovall.net
Becky Stovall	1222 Carter Rd 30030	berly@stovall.net
Louis Rodriguez	1431 Conway Rd 30030	Lourodz@BellSouth.net
Katie + Adam Lupoli	2612 20317 Patrick Ct SE	k.a.lupoli@gmail.com
Adam Bruckman	" "	adambruckman@gmail.com
Amber Goodwin	2539 Saint Patrick St SE	amber.goodwin333@gmail.com

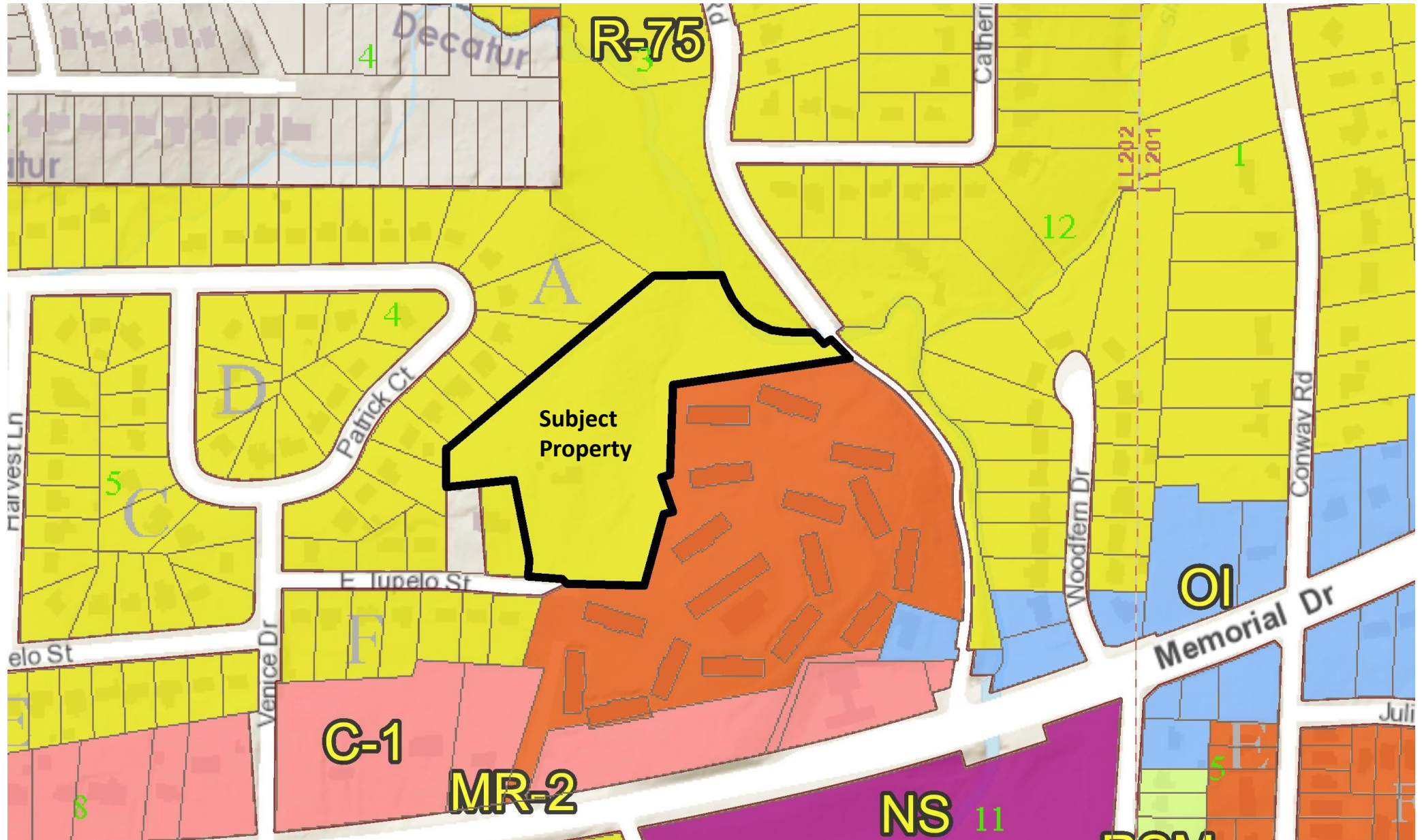
STRYANT CONSTRUCTION AND MANAGEMENT, INC.

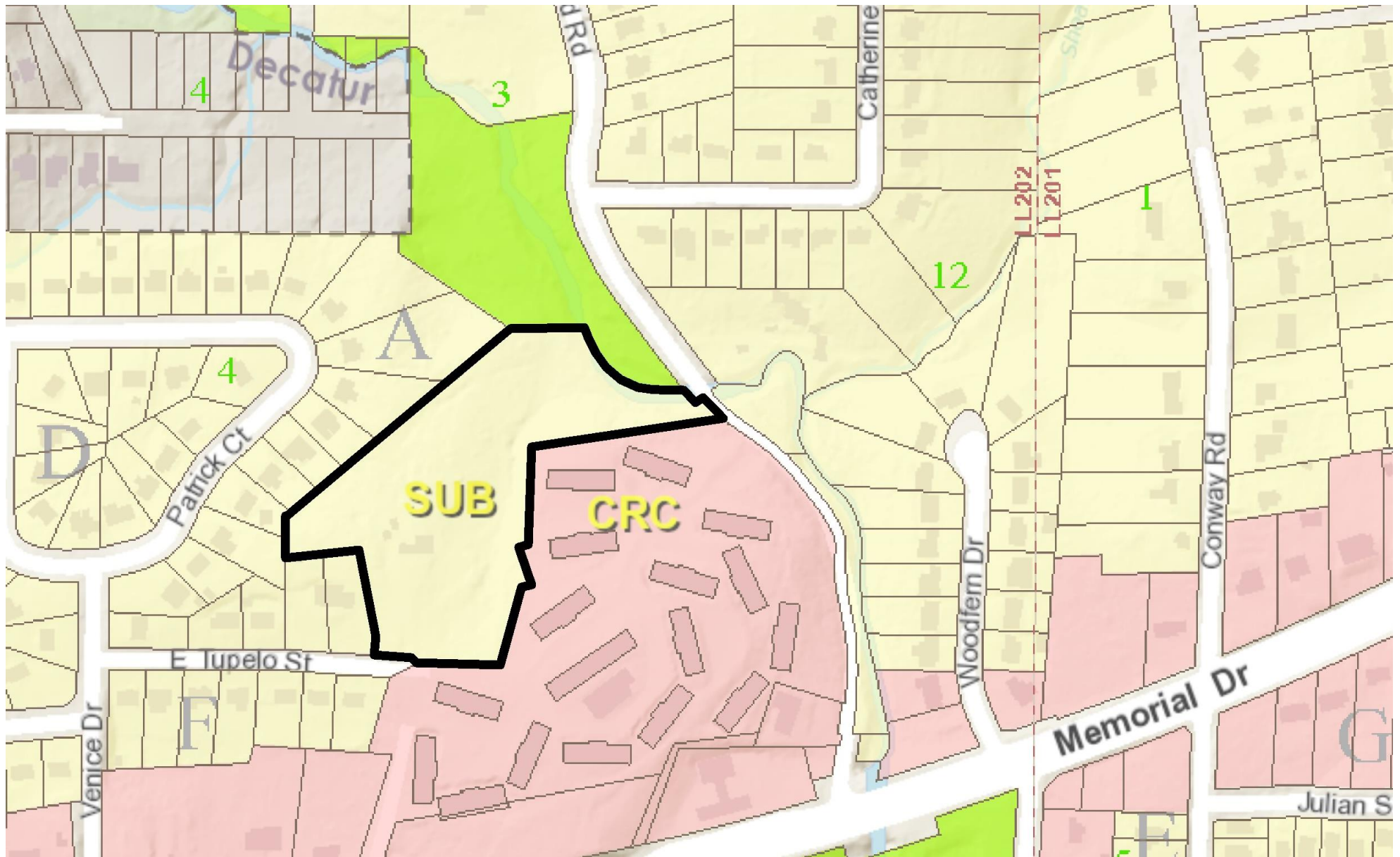
December 21, 2018 @ 7:00 p.m.

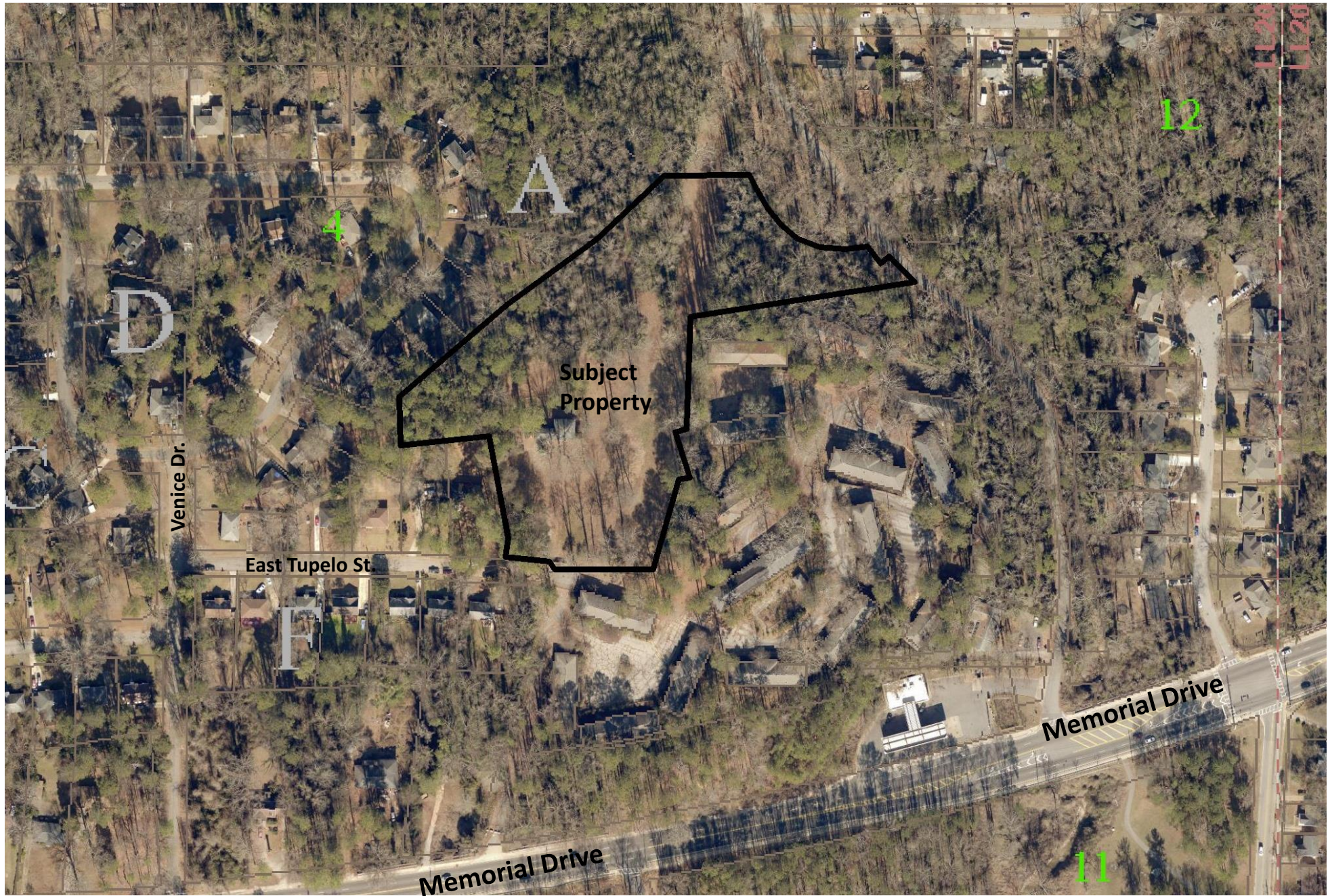
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Rick Baggenstoss	2596 Midway Rd Decatur, GA 30030	rick_baggenstoss@yahoo.com 4-663-8051
Danielle Bruce-Stubbs	1480 Catherine, Decatur, GA 30030	danielle.m.stubbs@yahoo.com 865-274-9883
Joe Leavelle	1586 Delano Dr.	404/288/6637











Subject property.

**Adjoining multifamily development
(to be redeveloped as the “Blue Sky”
development).**





